

Memorandum



Date: June 7, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(D)(1)(N)

Subject: Resolution approving an Interlocal Agreement between the City of Coral Gables and Miami-Dade County for the demolition and removal of the incinerator facility at the City of Coral Gables Maintenance and Storage Facility

This item was amended at the May 10, 2005 Infrastructure and Land Use Committee to change Article II, Term of the Agreement, to reflect that it will not exceed one (1) year instead of the four (4) originally listed and added language to Article V, Liquidated Damages, last sentence, to include "unless caused by negligence on the part of the County".

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution approving an Interlocal Agreement between the City of Coral Gables and Miami-Dade County for the demolition and removal of the incinerator facility at the City of Coral Gables Maintenance and Storage Facility, 2800 SW 72 Avenue, Miami-Dade County.

BACKGROUND

On October 20, 2004, the Miami-Dade County Unsafe Structures Board, in Master Case No. DC200425972U, ruled that the City of Coral Gables must repair or demolish the 4-story CBS Commercial Building (incinerator building) and the 8-story CBS stack (smokestack) located at the City of Coral Gables Maintenance and Storage Facility.

Prior to the Unsafe Structures Board ruling, the City of Coral Gables submitted a permit application to Miami-Dade County to conduct demolition of the subject buildings. The application was denied by the Miami-Dade County Department of Environmental Resources Management (DERM) due to the determination that the buildings contain ash contaminated with dioxin and metals, asbestos insulation and other materials which require special procedures for removal and handling to minimize the spread of contaminants (especially as dust) to adjacent areas and to conduct proper disposal of these materials. The City of Coral Gables then requested assistance from the County for the timely procurement and management of specialized demolition/environmental services through the use of existing contracts between the County and certified environmental consulting firms. The County agreed to provide such assistance and the project was competitively bid by DERM among the eligible service providers under the E98-DERM-01 Professional Services Agreements.

The City of Coral Gables and the County have agreed to conduct this work pursuant to the terms of the attached Interlocal Agreement.


Deputy County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 7, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(N)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(D)(1)(N)

06-07-05

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTER-LOCAL
AGREEMENT BETWEEN THE CITY OF CORAL GABLES
AND MIAMI-DADE COUNTY FOR THE DEMOLITION AND
REMOVAL OF THE INCINERATOR FACILITY AT THE CITY
OF CORAL GABLES MAINTENANCE AND STORAGE
FACILITY AND AUTHORIZING THE COUNTY MANAGER
TO EXECUTE SAME

WHEREAS, the City of Coral Gables owns an abandoned incinerator facility located at
2800 SW 72 Avenue; and

WHEREAS, the City is required to demolish and remove the incinerator facility in a
timely and safe manner; and

WHEREAS, Miami-Dade County, through its Department of Environmental Resources
Management (DERM) has the contractors available and has the necessary project management
abilities to correctly demolish and remove the incinerator facility; and

WHEREAS, the City desires to have DERM manage the demolition and removal of the
facility and to repay the County for the demolition and removal costs;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that the Inter-local
Agreement between the City of Coral Gables and Miami-Dade County is approved by this Board
of County Commissioners and the County Manager is authorized to execute said agreement, in
substantially the form attached hereto, after approval by the County Attorney, and to exercise all
termination, extension or other provisions of said agreement.

The foregoing resolution was offered by Commissioner _____, who
moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

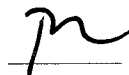
Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this
7th day of June, 2005. This Resolution and contract, if not vetoed, shall become effective
in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency.



Thomas H. Robertson

By: _____
Deputy Clerk

INTERLOCAL AGREEMENT BETWEEN THE CITY OF CORAL GABLES

AND MIAMI-DADE COUNTY

THIS AGREEMENT, made and entered into this _____ day of _____, 2005, by and between the CITY OF CORAL GABLES, a municipal corporation of the State of Florida, (hereinafter called the CITY), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter called the COUNTY).

WITNESSETH:

WHEREAS, the CITY owns and operates the property (the "Property") located at 2800 SW 72 Avenue known as the City of Coral Gables Maintenance and Storage Facility and;

WHEREAS, the Property contains the CITY's active vehicle fleet maintenance facility, an inactive waste incineration system (incinerator building, burn chambers and smokestack) and other CITY buildings; and

WHEREAS, pursuant to the Miami-Dade County Unsafe Structures Board ruling, the incinerator building and smokestack must be demolished (Master Case No. DC200425972U); and

WHEREAS, the Miami-Dade County Department of Environmental Management (DERM) has determined that the incinerator building, burn chambers and smokestack structures contain ash contaminated with dioxin and metals, asbestos insulation and possibly other materials which require special procedures for removal and handling to minimize the spread of contaminants (especially as dust) to adjacent areas and to conduct proper disposal of these materials; and

WHEREAS, the CITY has requested assistance from the COUNTY for the timely procurement of demolition services for the incinerator building, burn chambers and smokestack by means of existing contracts between the COUNTY and certified environmental consulting firms; and

WHEREAS, the COUNTY has agreed to provide such assistance to the CITY; and

WHEREAS, the CITY has agreed to fund the required demolition activities;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I.
PREMISES

The Premises consists of those buildings and facilities lying in Miami-Dade County and legally described as:

Legal Description

DENMAN FINK SUB PB 156-45 T-20407 TR A LOT SIZE 17.62 AC
M/L FAU 30-4014-010-0011

A diagram of the portion of the parcel subject to this Agreement is attached hereto as Exhibit "B," entitled "Site Plan".

II.
TERM OF AGREEMENT

This Agreement shall become valid upon execution by both parties and shall terminate upon the completion of the demolition and removal but not to exceed one (1) year from the execution date of this Agreement.

III.
SCOPE OF WORK

The scope of the work shall consist of the demolition and removal of the incinerator facility described in the Site Plan. The required demolition activities will be performed by an environmental consultant, currently contracted with Miami-Dade County under the E98-DERM-01 Professional Services Agreement, and their subcontractors in accordance with the Invitation to Bid (ITB) dated 8/19/04, the ITB Addendum #1 dated 9/17/04 and the ITB Addendum #2 dated 9/29/04. The general description of the work includes demolition of the existing incinerator building, burn chambers, and smokestack, using procedures approved by DERM and designed to minimize spread of contaminants (especially as dust) to adjacent areas. Included in this scope is the removal and proper disposal of ash contaminated with dioxin and metals, asbestos insulation and possibly other materials in the facility. The structures shall be removed down to the reinforced concrete foundations, which shall be cleaned and left in place. All work shall be conducted in accordance with approval from all applicable agencies and in accordance with all

applicable rules and regulations. The City will be responsible for the termination of existing publicly owned utilities such as water, sewer, electrical, and on-site transformers.

IV. **MANAGEMENT**

The CITY and the COUNTY have agreed to work cooperatively throughout the required demolition activities and to abide by the following general project management guidelines:

1. The City of Coral Gables is the Owner of the Property on which the work is to be performed.
2. The City will provide free and ready access to the work site.
3. The City will provide the use of utilities and limited office facilities as specified by the County.
4. A City Project Manager (PM) will be posted onsite to address access and traffic issues. All issues related to access and utilities shall be directed through the City PM.
5. The City PM will work in conjunction with the County/DERM PM. The County/DERM PM will be taking the lead in the oversight of the project.
6. The County/DERM PM will have oversight of the demolition, it's techniques and procedures..
7. The County/DERM PM will have the authority to reject or stop work that does not conform to the contract documents and/or the applicable Federal, State, or local regulations governing the work.
8. The County/DERM PM will have the authority to require any additional necessary work necessary to comply with all applicable environmental laws, after consultation with the City PM.
9. The County/DERM PM will review and either approve or reject any Change Orders after consultation with the City PM.
10. The County/DERM PM and the City PM have the right to conduct inspections as regards to any environmental, health, safety, or access related issues.
11. The County will be responsible for receipt and review of any project submittals. The City also reserves the right to review submittals.
12. The County/DERM PM will have the authority to require additional testing as necessary or advisable. The County/DERM will also have the authority to determine the appropriate course of action pending the results of any ordered testing (i.e., additional testing, recommended remedial action, etc).
13. The County/DERM PM and the City PM will work in conjunction to ascertain the progress of the project. Project progress reports will be compiled and submitted to the DERM Director using information obtained from both PMs.
14. The City PM shall be responsible for authorizing proposed changes to the contractor's schedule when due to site access conditions.
15. The City PM will be the Owner's representative during the project, and will consult with the County/DERM PM. However, instructions to the contractor will be given by the County/DERM PM.
16. The County/DERM PM shall assist the contractor in forwarding any necessary documentation to the owner such as releases of lien and certificates of insurance for the contractor and any subcontractors, copies of applicable licenses and copies of inspections.
17. The project will commence with a written authorization from the County as well as the City Project Directors.
18. The County may not order any additional work from the contractor, or agree to any material changes that would have an affect on the pricing of the contract, without having consulted the City of Coral Gables City Manager.
19. In any dispute concerning the progress of the project or any actions to be taken, the decision of the Director of the DERM shall be binding upon both parties.

V.
LIQUIDATED DAMAGES

The environmental consultant authorized to perform the required demolition activities under the E98-DERM-01 Professional Services Agreement with the COUNTY may, in accordance with said Professional Services Agreement, be assessed liquidated damages due to non-excusable delays at the rate of \$500 per calendar day for each day the project exceeds specified deadlines. In addition thereto, the Contractor may recover liquidated indirect costs due to excusable compensable delays at a rate of \$200 per day for each day of compensable delay.

The CITY and COUNTY agree that any liquidated damages paid by the environmental consultant shall be paid towards the subject demolition costs.

The CITY agrees that any liquidated indirect costs resulting from excusable compensable delays paid to the environmental consultant shall be paid by the CITY unless caused by negligence on the part of the County.

VI.
PERFORMANCE AND PAYMENT BOND

The environmental consultant authorized to perform the required demolition activities under the E98-DERM-01 Professional Services Agreement with the COUNTY, before commencing any construction work, must obtain a Public Construction Bond in a form acceptable to the COUNTY in an amount not less than the full amount of the work and shall execute, record in the public records of the COUNTY and deliver said bond to the COUNTY.

The CITY and COUNTY agree that in the event that any bond funds are dispersed to the COUNTY, such funds shall be paid towards the subject demolition costs.

VII.
COMPLIANCE WITH LAWS AND ORDINANCES

Throughout the term of this Agreement, CITY and COUNTY shall comply with all applicable laws, ordinances and codes of Federal, State and Local Governments, including the Americans with Disabilities Act, as they apply to this Agreement.

VIII.
INDEMNIFICATION

CITY shall indemnify and hold harmless the COUNTY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and cost of defense, which the COUNTY or its officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to or resulting from the use of the Property by the COUNTY or by COUNTY employees or their invitees. CITY shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature, in the name of the COUNTY, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorney's fees, which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 of the Florida Statutes.

IX.
ENTRY ON PREMISES BY LANDLORD
INSPECTION BY LANDLORD OF PROPERTY

The CITY, or any of its agents, shall have the right to enter upon the premises during all reasonable hours to examine the same, or to inspect, repair, and/or maintain. Such entry shall not unreasonably disturb the project, however, it is hereby agreed and understood that safety and maintenance of the property is paramount and will take precedence over any other activity in the Property.

X.
INSURANCE

The Contractor, retained by the County, is required to purchase and maintain insurance in amounts and form terms as set forth in E98-DERM-01 Professional Services Agreement Said insurance is the only insurance in force for this project.

XI.
TERMINATION

COUNTY shall have the right to terminate this Agreement by giving CITY written notice sixty (60) days prior to the effective date of such termination. The CITY shall have the right to terminate this Agreement only upon a material breach of this Agreement and then, only after notice and an opportunity to cure is provided as set forth hereafter. Upon material breach of this Agreement by the COUNTY, the CITY shall give COUNTY notice of such material breach stating in detail the exact nature of the material breach. If, within thirty (30) days of COUNTY's receipt of such notice, COUNTY has failed to implement a cure of said breach, the CITY shall provide the COUNTY, in writing, a notice of COUNTY's failure to timely commence its cure. If within thirty (30) days after COUNTY's receipt of the second notice, the COUNTY has not commenced its cure, the CITY may terminate this Agreement upon an additional thirty (30) days written notice to COUNTY. Upon Termination, the City shall remain responsible and shall pay all outstanding invoices for work which was contracted for and/or provided prior to the termination.

XII.
PAYMENT OBLIGATION

The City shall be responsible for all costs incurred or associated with this project and shall reimburse the County and/or directly pay to the contractor all expenses incurred in the project. The City shall pay all invoices in a timely fashion. This Payment Obligation shall survive the termination of this contract.

XIII.
NOTICE AND GENERAL CONDITIONS

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service or by registered mail addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

1. In the case of notice or communication to CITY:

City of Coral Gables
Office of the City Manager
405 Biltmore Way
Coral Gables, Florida 33134

cc: City Attorney
Public Works Director

2. In the case of notice or communication to COUNTY:

Miami-Dade County
Office of the County Manager
111 NW First Street
Miami, Florida 33131

cc: County Attorney
DERM Director

XIV. **NON-DISCRIMINATION**

CITY and COUNTY agree that there will be no discrimination against any person based upon race, color, sex, religious creed, ancestry, national origin, mental or physical handicap, in the award for authorization of the required demolition activities and throughout the completion of the work.

XV. **AMENDMENTS**

CITY and COUNTY, by mutual agreement, shall have the right, but not the obligation, to amend this Agreement. Any and all amendments shall be effective only if in writing and signed by CITY and COUNTY and shall be incorporated as part of this Agreement.

XVI. **CONSTRUCTION OF AGREEMENT**

This Agreement shall be construed and enforced according to the laws of the State of Florida.

XVII. **SEVERABILITY**

In the event any paragraph, clause or sentence of this Agreement or any future amendment is declared invalid by a court of competent jurisdiction, such paragraph, clause or sentence shall be stricken

from the subject Agreement and the balance of the Agreement shall not be affected by the deletion thereof.

XVIII.
LIBERAL INTERPRETATION

The purpose of this Agreement is to establish County assistance in the form of County-contracted consultant demolition services to include CITY funding of said demolition services for the incinerator building, burn chambers and smokestack. Accordingly, this Agreement will be liberally interpreted to protect COUNTY from the expenses, damages, costs, attorney's fees, and expenses of such claims that would not have arisen but for the Agreement. Any and all provisions of law that might require or suggest a strict construction of this document, which would lessen the protections provided to COUNTY, or limit or restrict such protections, are hereby waived by the parties. The provisions of this Agreement shall be severable and if any part is deemed illegal and void the remainder of the Agreement shall continue to have full force and effect.

XX.
WAIVER

No waiver of any provision hereof shall be deemed to have been made unless such waiver is in writing and signed by CITY and COUNTY. The failure of any party to insist upon strict performance of any of the provisions or conditions of this Agreement shall not be construed as waiving or relinquishing any such covenants or conditions, but the same shall continue and remain in full force and effect.

XXI.
ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties.

XXII
SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

12

XXIII

SURVIVAL OF TERMINATION

The obligations contained herein concerning indemnification and payment shall survive the termination of the contract whether by completion of the contract or by termination by either party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written.

ATTEST:

Walter Foeman, City Clerk

AS TO
CITY OF CORAL GABLES

David L. Brown, City Manager

ATTEST:

AS TO
MIAMI-DADE COUNTY

George M. Burgess, County Manager

WITNESSES

Name Printed: _____

Name Printed: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____, 2001, by David L. Brown and Walter Foeman, as City Manager and City Clerk, respectively, for the CITY OF CORAL GABLES, a Florida Municipal Corporation.

(SEAL)

Or

NOTARY PUBLIC
Personally Known _____
Produced Identification _____
Type of Identification Produced _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____,
2001, by _____, and
_____, for MIAMI-DADE COUNTY, a political
subdivision of the State of Florida.

(SEAL)

NOTARY PUBLIC

Or Personally Known _____
Produced Identification _____
Type of Identification Produced _____

APPROVED AS TO FORM

14